

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 1:07cr111

MAURICIO MICHEL,
Defendant.

ORDER/OPINION

On the 12th day of February, 2009, Defendant, Mauricio Michel, *pro se*, filed a Motion to Compel Discovery [Docket Entry 79]. In his motion, Defendant requests an Order for the “disclosure of all information relating to the misconduct of the alleged victim in his role as a correctional officer along with any documents, pictures, reports, video or other information relating to the second assault on the alleged victim.” The Court finds this motion is not complex and decides the motion without hearing.

Procedural History

Defendant Michel was indicted by a grand jury attending the United States District Court for the Northern District of West Virginia on November 6, 2007. The indictment charges him with using a dangerous weapon and knowingly and forcibly assaulting an employee of the United States Department of Justice, Bureau of Prisons, while the employee was engaged in his official duties as a corrections officer; and knowingly and forcibly resisting, opposing, and impeding employees of the Bureau of Prisons. Defendant was arraigned on December 13, 2007, at which time he pled not guilty to the charges.

In his Motion, Defendant states:

The Defendant is informed that the alleged victim in this case has failed to comply with the administrative rules governing correctional officers at USP Hazleton,

engaged in official misconduct and that the alleged victim has mistreated inmates. Based on this information , the Defendant previously made a request for all personnel and disciplinary records of the alleged victim, which was denied by the district court. The Defendant renews this request and asks this court to reconsider it.

In fact, District Judge Irene M. Keeley's order entered on August 27, 2008, after the Final Pretrial Conference provides as follows, in pertinent part:

- Defendant's request for the alleged victim's job description-**DENIED**
- Defendant's request for the alleged victim's personnel file-**DENIED**
- Defendant's request for information relating to the training of the alleged victim-**DENIED**
- Defendant's request for information related to grievances and disciplinary actions against the alleged victim-**DENIED**

The Court will not revisit or reconsider these requests. For reasons apparent to the Court, Defendant's motion, insofar as it "renews this request and asks this court to reconsider it" is **DENIED**.

Defendant additionally requests information regarding a subsequent assault on the alleged victim by another inmate at U.S.P. Hazelton. First, the Court finds this information is simply more of the same type of information already denied by the District Judge. Additionally, the Court finds that the fact, even if true that the alleged victim in this case was subsequently assaulted by another inmate, this information is not relevant to Defendant's case. Defendant's motion to compel information regarding the alleged second assault is therefore **DENIED**.

In conclusion, Defendant's "Motion to Compel Discovery" [Docket Entry 79] is **DENIED**.

The deadline for filing pre-trial motions having passed, and this being the only motion filed that is presently before the undersigned United States Magistrate Judge, the pre-trial motions hearing currently scheduled for February 26, 2009, at 11:00 a.m. is hereby **CANCELLED**.

It is so **ORDERED**.

The Clerk of the Court is directed to send a copy of this Order to counsel of record and Defendant, *pro se*.

DATED: February 17 , 2009.

John S. Kaull

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE